

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of )  
FRACE *et al* )  
Serial No. 09/485,099 )  
Filed: August 6, 1998 )  
For: "PREPARATION AND USE OF )  
RECOMBINANT INFLUENZA A VIRUS M2 )  
CONSTRUCTS AND VACCINES )

**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS  
UNDER 35 U.S.C. 371  
IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

Commissioner for Patents  
BOX PCT (IPEA/EP)  
Washington, D.C. 20231

NEEDLE & ROSENBERG, P.C.  
Suite 1200, The Candler Building  
127 Peachtree Street, N.E.  
Atlanta, Georgia 30303-1811

September 25, 2001

Sir:

In response to the July 25, 2001 Notification of Missing Requirements Under  
35 U.S.C. §371 which has been issued in the above-identified patent application, enclosed are:

1. a Sequence Listing ( 2 pages);
2. a Sequence Listing Diskette;
3. a copy of the Notification of Missing Requirements Under 35 U.S.C. 371  
in the United States Designated/Elected Office (DO/EO/US); and
4. a copy of the Notification to Comply with Requirements for Patent  
Applications Containing Nucleotide Sequence and/or Amino Acid  
Sequence Disclosures.

Item 3 of the Notice of Missing Requirements states that \$270.00 is owed for additional claim fees. Applicants include herewith a Preliminary Amendment which cancels presently pending claims 1-23 and adds new claims 24-89, providing a total of 66 claims with two independent claims. There are no multiple dependent claims in new claims 24-89. Applicants paid \$828.00 for 46 claims ( $x \$18.00.00 = \$828.00$ ) over 20 claims and no independent claims over 3. Therefore, since there are no multiple dependent claims in new claims 24-89, applicants have not enclosed the fee for multiple dependent claims and respectfully request the withdrawal of the requirement stated in item 3.

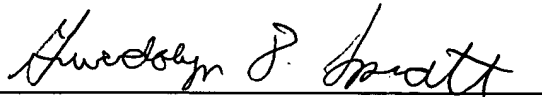
The diskette containing the Sequence Listing for this application in computer readable form (CRF) and paper copy of the Sequence Listing are submitted in compliance with 37 C.F.R. §§ 1.821-1.825. Applicants hereby certify that the information in both the computer readable form and the paper copy of the Sequence Listing enclosed herewith is the same and includes no new matter.

The enclosed computer readable copy and paper copy of the Sequence Listing are believed to bring the Sequence Listing into full compliance with the sequence rules. Therefore, entry of the Sequence Listing is respectfully requested.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.

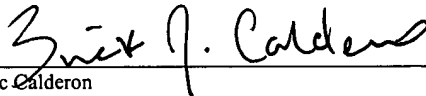


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**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EL403506596US in an envelope addressed to: Commissioner for Patents, Box PCT (IPEA/EP), Washington, D.C. 20231, on the date shown below.

  
Eric Calderon

9/25/01  
Date